

FILED
AM Terry Deinlein, Acting Clerk
Cincinnati, Ohio

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

03 NOV -5 PM 2:12

U.S. DISTRICT COURT
SOUTHERN DISTRICT OHIO
WEST DIV CINCINNATI

CARMEN CARTER

Case Number 1:00-CV-00739

Plaintiff

Sr. District Judge S. Arthur Spiegel

vs

E. W. Scripps Company

Defendant

NOTICE OF APPEAL

Notice is hereby given that Plaintiff, Carmen Carter, in the above named case hereby appeals to the United States Court of Appeals for the Sixth Circuit from the Order issued on the 17th day of October 2003, by Senior District Judge S. Arthur Spiegel, dismissing the Plaintiff's suit to throw out the tainted arbitration award.

Carmen Carter

Carmen Carter

Plaintiff

419 Probasco Street #7

Cincinnati, OH 45220

(513) 751-5076

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon Appelle's attorney, David Holcombe, Baker & Hostetler, 312 Walnut Street, Cincinnati, OH 45202-4038, via U.S. mail this 4th day of November 2003.

A handwritten signature in cursive script, reading "Carmen Carter", written over a horizontal line.

Carmen Carter

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CARMEN CARTER,	:	NO. 1:00-CV-00739
	:	
Plaintiff,	:	
	:	
v.	:	ORDER
	:	
THE E.W. SCRIPPS COMPANY,	:	
	:	
Defendant.	:	

This matter is before the Court on the Magistrate Judge's July 28, 2003 Report and Recommendation (doc. 74), to which there were no objections filed.

Plaintiff's Complaint seeks to vacate an arbitrated decision finding just and sufficient cause existed for Defendant's suspension and termination of Plaintiff's employment (doc. 1). According to Plaintiff, the Arbitrator's decision should be set aside because 1) the Union representative breached its duty of fair representation of the Plaintiff during the arbitration proceeding, 2) there was evidence of partiality on the part of the Arbitrator, and 3) the Arbitrator failed to consider evidence and witnesses' statements submitted prior to the arbitration (Id.). Defendant filed its Motion for Summary Judgment, contending that Plaintiff lacks standing to bring suit because she is a non-signatory to the Collective Bargaining Agreement, and that even if she did have

standing, she has failed to present evidence sufficient to support a claim to vacate the Arbitrator's award (doc. 60).

In his Report and Recommendation, the Magistrate Judge found that Plaintiff has no standing to challenge the arbitration award because the Collective Bargaining Agreement does not grant Plaintiff such rights (doc. 74) (finding persuasive Defendant's citation to Bacashihua v. American Postal Workers Union, 859 F. 2d 402 (6th Cir. 1988), and citing Katir v. Columbia University, 15 F. 3d 23 (2d Cir. 1994)). The Magistrate Judge further found that even if Plaintiff had standing, there is no issue of material fact relative to Plaintiff's claim that the union failed to provide her with fair representation at the hearing, and therefore summary judgment in favor of the union would be appropriate if the union were made a party (Id.). The Magistrate Judge reasoned that because Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185 requires a finding against the union and the employer, and as no such finding can be made against the union, it follows that Defendant employer is entitled to summary judgment (Id.). As for Plaintiff's contentions that the Arbitrator was biased, the Magistrate Judge found no basis to obstruct summary judgment in favor of Defendant (Id.). Finally, the Magistrate Judge found that the Arbitrator's decision reflects that he drew his conclusion from his analysis of the facts and the Collective Bargaining Agreement,

and that Plaintiff has not demonstrated that any extralegal factors influenced the Arbitrator's decision (Id.). The Magistrate Judge concluded by recommending that Defendant's Motion for Summary Judgment be granted and this matter be terminated upon the Court's docket (doc. 74).

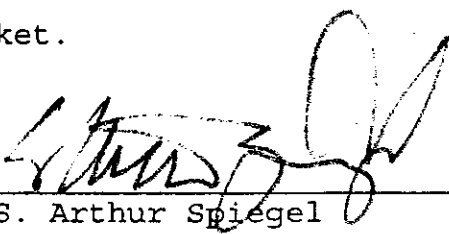
The Court finds the Report and Recommendation of the Magistrate Judge thorough and well-reasoned and will therefore affirm his Recommendation.

Proper notice was provided to the parties under Title 28 U.S.C. § 636(b)(1)(C), including the notice that they would waive further appeal if they failed to file an objection to the Magistrate Judge's Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981).

Having reviewed this matter de novo, pursuant to Title 28 U.S.C. § 636, the Court finds the Magistrate Judge's Report and Recommendation to be correct. Accordingly, the Court hereby ADOPTS the Magistrate Judge's report and AFFIRMS the Magistrate Judge's recommended decisions (doc. 74). The Court therefore GRANTS Defendant's Motion for Summary Judgment (doc. 60) and terminates this case upon the Court's docket.

SO ORDERED.

Dated: 10/14/00


S. Arthur Spiegel
United States Senior District Judge

Other Orders/Judgments

1:00-cv-00739-SAS-TSH Carter v. E W Scripps Company

U.S. District Court [LIVE]

LIVE - U.S. District Court, Southern District of Ohio

Notice of Electronic Filing

The following transaction was received from km, entered on 10/17/2003 at 12:42 PM EDT and filed on 10/17/2003

Case Name: Carter v. E W Scripps Company

Case Number: 1:00-cv-739

Filer:

Document Number: 77

Docket Text:

ORDER ADOPTING REPORT AND RECOMMENDATION [74] The Court GRANTS Defendant's Motion for Summary Judgment [60] and terminates this case upon the Court's docket. Signed by Judge S Arthur Spiegel on 10/16/2003. (km,)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1040326259 [Date=10/17/2003] [FileNumber=46299-0]
[811e49e7da4e1875fb8167d29ef53b1f9628e2ae09ee626c3ad406524d403c290fd4
937b3251b04ca56c116c64e32e80da434036f8236d53fa65a19d67956704]]

1:00-cv-739 Notice will be electronically mailed to:

David G Holcombe dholcombe@bakerlaw.com,

Jeffery L VanWay jvanway@bakerlaw.com, cfetters@bakerlaw.com

1:00-cv-739 Notice will not be electronically mailed to:

Carmen Carter
419 Probasco Street
#7
Cincinnati, OH 45220

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Carmen Carter,

Plaintiff(s)

vs.

E W Scripps Company,

Defendant(s)

Case Number: 1:00-cv-00739

Senior District Judge S. Arthur Spiegel

JUDGMENT IN A CIVIL CASE

Decision by Court: This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

... The Court hereby ADOPTS the Magistrate Judge's report and AFFIRMS the Magistrate Judge's recommended decisions (doc. 74). The Court therefore GRANTS Defendant's Motion for Summary Judgment (doc. 60) and terminates this case upon the Court's docket.

10/17/03

Kenneth Murphy, Clerk

s/Kevin Moser

Kevin Moser

Deputy Clerk

Other Orders/Judgments

1:00-cv-00739-SAS-TSH Carter v. E W Scripps Company

U.S. District Court [LIVE]

LIVE - U.S. District Court, Southern District of Ohio

Notice of Electronic Filing

The following transaction was received from km, entered on 10/17/2003 at 12:48 PM EDT and filed on 10/17/2003

Case Name: Carter v. E W Scripps Company

Case Number: 1:00-cv-739

Filer:

Document Number: 78

Docket Text:

CLERK'S JUDGMENT affirming order [77] entering judgment in favor of Defendant and against Plaintiff. (km,)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1040326259 [Date=10/17/2003] [FileNumber=46316-0]
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c7fc6d7780f9949ac1b7055b7b39da077177058f8758d21e18327c9d7961]]

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